



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 7893-99

24 February 2000

CAL [REDACTED] SMC

Dear Captain [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 10 December 1999, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division, dated 4 January 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They were unable to find that the contested fitness report did not reflect the entire period, or that you were unfairly ranked among your peers. Since the Board found no defect in your performance record, they had no basis to strike your failure by the Fiscal Year 2000 Major Selection Board. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7893-99

IN REPLY REFER TO:
1610
MMER/PERB

DEC 10 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMC

Ref: (a) Captain [REDACTED] DD Form 149 of 12 Sep 99
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 30 November 1999 to consider Captain [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970825 to 980731 (DC) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report at issue fails to present an accurate indicator of his overall performance and achievements. It is his position that the evaluation is the product of personality conflicts, a lack of understanding in the deployment of the Marine Air Control Group-28 Detachment, an incomplete period of observation, and his assignment to six different Reviewing Seniors over the span of the reporting period. To support his appeal, the petitioner furnishes his own detailed statement and a letter from Lieutenant Colonel [REDACTED] (ACE 26th MEU(SOC) from August 1997 through August 1998).

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Although the petitioner may not agree with the qualitative assessment of his performance as recorded by Lieutenant Colonel [REDACTED] the challenged fitness report contains no procedural or administrative errors. It is, in all respects, an overall outstanding evaluation of performance/accomplishments.

b. Notwithstanding the letter from Lieutenant Colonel [REDACTED] no corroborating evidence has been presented to support a claim of error or injustice. Likewise, we find absolutely nothing to show that a "personality conflict" existed, or that if it existed, such conflict resulted in a biased or unfair evaluation. As a final matter, the Board observes that Lieutenant Colonel

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CAPTAIN [REDACTED] T, [REDACTED] SMC

[REDACTED] belief that the petitioner's ". . . evaluations during this period may not have taken all factors, specifically with regards to MOS value and abilities into account" is unsupported speculation. No one, other than the Reporting Senior himself, can say with any specificity precisely what was or was not considered in formulating the overall assessment.

c. To justify the deletion or amendment of a fitness report, evidence of probable error or injustice should be produced. Such is simply not the situation in this case.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Captain [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED] R.

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

789399

IN REPLY REFER TO:

1600
MMOA-4
4 Jan 00

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain [REDACTED] USMC
of 28 Dec 99

1. Recommend disapproval of Captain [REDACTED] implied request for removal of his failure of selection.

2. Per the reference, we reviewed Capt [REDACTED]'s record and petition. He failed selection on the FY00 USMC Major Selection Board. Subsequently, he unsuccessfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Directed by the Commandant of the Marine Corps fitness report of 970825 to 980731. Captain [REDACTED] petition implies a request for the removal of his failure of selection.

3. In our opinion, the unfavorable PERB action does not reflect a material change in the record as it appeared before the FY00 Board and his record received a substantially complete and fair evaluation by the Board. In addition, his overall value and distribution shows 14 officers ranked above him and 11 below, placing him in the middle to bottom of the pack which more than likely contributed to his failure of selection. Therefore, we recommend disapproval of Captain [REDACTED] implied request for removal of his failure of selection.

4. Point of contact is [REDACTED]

Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division